

U.S. CONSUMER PRODUCT SAFETY COMMISSION



OFFICE OF THE INSPECTOR GENERAL

SEMIANNUAL REPORT TO CONGRESS

October 1, 2009 - March 31, 2010



U.S. CONSUMER PRODUCT SAFETY COMMISSION  
BETHESDA, MD 20814

April 30, 2010

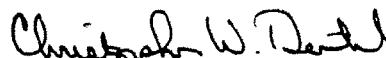
Honorable Inez M. Tenenbaum  
Chairman  
U. S. Consumer Product Safety Commission

Dear Chairman Tenenbaum:

I hereby submit the Semiannual Report for the Office of the Inspector General for the period October 1, 2009 through March 31, 2010. The report, which is required by the Inspector General Act of 1978, as amended, summarizes the activities of this office during this six-month period. Section 5 of the Act requires you to transmit this report to the appropriate Congressional committees within 30 days of its receipt.

I appreciate the cooperation and support received from the Commission staff during the reporting period.

Sincerely,

  
Christopher W. Dentel  
Inspector General

## EXECUTIVE SUMMARY

This semiannual report summarizes the major activities performed by the Office of the Inspector General during the reporting period, October 1, 2009 through March 31, 2010. During the reporting period, this office completed three (3) audits or reviews. At the end of the reporting period, five (5) audits or reviews and four (4) investigations were in progress.

The Office of the Inspector General received eight (8) complaints during the reporting period; five (5) of which resulted in the initiation of a formal investigation. Five (5) investigations were closed during the reporting period. Management officials acted on the recommendations made in the completed investigations from the previous reporting period.

The Office of the Inspector General continues to be involved with the Council of the Inspectors General on Integrity and Efficiency, and the Council of Counsels to the Inspectors General.

## **INTRODUCTION**

### **U. S. CONSUMER PRODUCT SAFETY COMMISSION**

The U.S. Consumer Product Safety Commission (CPSC) is an independent regulatory agency created in 1973, under the provisions of the Consumer Product Safety Act (P.L. 92-573), to protect the public against unreasonable risks of injuries associated with consumer products. Under the Consumer Product Safety Act and the Consumer Product Safety Improvement Act, Congress granted the CPSC broad authority to issue and enforce standards prescribing performance requirements, warnings, or instructions regarding the use of consumer products. The CPSC also regulates products covered by a variety of other acts such as: the Virginia Graeme Baker Pool and Spa Safety Act, the Children's Gasoline Burn Prevention Act, the Flammable Fabrics Act, the Federal Hazardous Substances Act, the Poison Prevention Packaging Act, and the Refrigerator Safety Act.

The CPSC is headed by five Commissioners appointed by the President with the advice and consent of the Senate. The Chairman of the CPSC is designated by the President. The CPSC's Headquarters is located in Bethesda, Maryland. It has field personnel stationed throughout the country. The CPSC had a budget of \$105.404 million and 483 authorized full-time equivalent positions for Fiscal Year 2009.

### **OFFICE OF THE INSPECTOR GENERAL**

The Office of the Inspector General is an independent office established under the provisions of the Inspector General Act of 1978, as amended by the Inspector General Act Amendments of 1988, and the Inspector General Reform Act of 2008. The Inspector General Act gives the Inspector General the authority and responsibility to:

- Conduct and supervise audits and investigations of CPSC programs and operations;
- Provide leadership, coordination, and recommend policies for activities designed to: (i) promote economy, efficiency, and effectiveness in the

administration of CPSC's programs and operations and  
(ii) prevent and detect fraud, waste, and abuse of  
CPSC programs and operations; and

- Keep the Chairman and Congress fully and currently informed about problems and deficiencies relating to the administration of CPSC programs and operations, and the need for progress or corrective action.

The Office of the Inspector General investigates complaints and information received concerning possible violations of laws, rules, and regulations, mismanagement, abuse of authority, and waste of funds. These investigations are in response to allegations, complaints, and information received from CPSC employees, other government agencies, contractors, and other concerned individuals. The objective of this program is to ensure the integrity of the CPSC and ensure individuals fair, impartial, and independent investigations.

The Office of the Inspector General also reviews existing and proposed legislation and regulations relating to the programs and operations of the CPSC concerning their impact on the economy and efficiency in the administration of such programs and operations.

The Office of the Inspector General was authorized seven full-time equivalent positions for Fiscal Year 2010: the Inspector General, a Deputy Inspector General for Audits, an office manager, an Information Technology auditor, and three line auditors. A vacancy announcement has been placed for the Information Technology Auditor position, but it has not yet been filled.

## AUDIT PROGRAM

During this period, the Office of the Inspector General worked on 8 audits and reviews. A summary of each follows:

### AUDIT OF FINANCIAL STATEMENTS

The Accountability of Tax Dollars Act of 2002 requires that the CPSC and other smaller agencies, which had not been required in the past to perform annual financial audits, begin performing annual audits of their financial statements. This audit was performed to meet this statutory requirement.

The objectives of this audit were to ensure that the CPSC was meeting its responsibilities for: (1) preparing the financial statements in conformity with generally accepted accounting principles; (2) establishing, maintaining, and assessing internal control to provide reasonable assurance that the broad control objectives of the Federal Managers' Financial Integrity Act are met; (3) ensuring that the CPSC's financial management systems substantially comply with statutory requirements; and (4) complying with other generally applicable laws and regulations.

This audit found that the financial statements, including the accompanying notes, presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles, the CPSC's assets, liabilities, and net position as of September 30, 2009 and for the year then ended.

The Consumer Product Safety Commission maintained, in all material respects, effective internal control over financial reporting (including safeguarding assets) as of September 30, 2009. CPSC's internal controls provided reasonable assurance that misstatements, losses, or noncompliant material in relation to the Balance Sheet would be prevented or detected on a timely basis.

The CPSC was found to be in compliance with all relevant laws and regulations. Financial transactions were properly recorded, processed, and summarized so as to permit the preparation of financial statements in conformity with generally accepted accounting principles, and assets were safeguarded against loss from unauthorized acquisition, use, or disposition. Transactions

were executed in accordance with laws governing the use of budget authority and with other laws and regulations that could have a direct and material effect on the financial statements and any other laws, regulations, and government-wide policies identified by OMB audit guidance.

#### **FEDERAL INFORMATION SECURITY MANAGEMENT ACT REVIEW**

To meet the requirements of the Government Information Security Reform Act (GISRA), and its successor, the Federal Information Security Management Act (FISMA), the Consumer Product Safety Commission's (CPSC) Office of the Inspector General (IG) contracted with Grant Thornton, LLP to perform an independent audit of CPSC's automated information security control procedures and practices in Fiscal Year 2001. The audit included tests of entity-wide controls and six of CPSC's 49 application systems and their underlying elements. Grant Thornton used the National Institute of Standards and Technology Special Publication (SP) 800-XX, Draft Self-Assessment Guide for Information Technology Systems, March 9, 2001 to test security controls. The results of the Audit of Automated Information System Security, August 16, 2001, and the annual follow-ups to it, in conjunction with the independent reviews required by FISMA and audits with privacy (Review of the CPSC Privacy Program) or information technology aspects (CFO Act Audit, etc.), served as the basis for the IG's Fiscal Year 2009 evaluation.

This year's FISMA evaluation found that although much work has been done and the CPSC's IT system had retained its certification and accreditation, much work remains to be done. For example, the CPSC's Security Plan of Action and Milestones (POAM) can, and should, be better integrated into the agency's planning and management processes. The IT challenges facing the agency are particularly relevant at the present time as the agency deals with both the implementation of the Consumer Product Safety Improvement Act (CPSIA) in general and with the CPSIA's specific impacts on the agency's IT operations.<sup>1</sup>

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<sup>1</sup> The CPSIA requires the development of a database of publicly available information on incidents involving injury or death required under section 6A of the Consumer Product Safety Act and the integration of the database into the Commission's overall information technology improvement objectives and plans.

Although the CPSC has continued to develop its privacy program in an effort to meet the non-IT information security standards tested by FISMA and set out in a variety of OMB and related requirements, including those relating to the Privacy Act and the protection of personally identifiable information (PII), there is still room for improvement. Although much work has been done in drafting and beginning the process of implementing privacy and information security policies, not enough has been done to implement and test compliance with these policies.

#### **AUDIT OF CPSC PRIVACY PROGRAM**

The Federal Government requires appropriate information about its citizens to carry out the diverse missions mandated by the Constitution and laws of the United States. Long mindful of the potential adverse impact on individuals of the misuse of Federal records, the United States has adopted a comprehensive approach to limiting the Government's collection, use, and disclosure of personal information.

For example, the Privacy Act of 1974 requires that each government agency have in place an administrative and physical security system to prevent the unauthorized release of personal records. The act also states that that no agency shall disclose any record which is contained in a system of records by any means of communication to any person or to another agency except pursuant to a written request by, or with the prior written consent of, the individual to whom the records pertains, unless disclosure of the record would be to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties. The E-Government Act, among other things, enhances protection for personal information in government information systems or information collections by requiring that agencies conduct privacy impact assessments, which are analyses of how personal information is collected, stored, shared, and managed in a federal system of records.



This audit's objective was to review the Consumer Product Safety Commission's (CPSC) privacy program's documentation, policy, procedures, and implementation for compliance with appropriate regulatory guidance and statutes. Overall, it was found that although the agency does have a functioning privacy program in place, that program has a number of weaknesses. Recommendations were made to address these weaknesses.

#### **AUDIT OF FEDERAL TRANSIT BENEFIT PROGRAM (ongoing)**

The Federal Transit Benefit Program (FTBP) offers qualified federal employees a subsidy to use mass transportation. The value of this subsidy is excluded from the taxable wages and compensation of the employees who receive it. In subsidizing the federal employees' cost of using public transportation to commute to and from work, the FTBP sought to reduce federal employee's contribution to traffic congestion and air pollution and to expand their use of public transportation.

The objectives of this review were to evaluate the adequacy of CPSC's internal controls in the management of the FTBP and to assess whether CPSC implemented internal controls efficiently and effectively within the program.

The fieldwork has been completed for this audit and a draft report issued to management for comment. Many of the recommendations contained in this draft report have already been implemented by management.

#### **AUDIT OF ON-SITE CONTRACTOR ACTIVITY (ongoing)**

This audit will assess the Commission's policies, procedures, and internal controls over on-site contractors. Over the past decade the amount of work performed by contractor personnel who work on-site in Federal facilities has increased. The government's increasing reliance on contractor personnel to perform duties that would otherwise be performed by government personnel creates a number of potential issues. This audit will attempt:

- To determine the adequacy of the training provided to the Government personnel who are responsible for ensuring that the contracts are performed in accordance with Federal regulations and meet the Commission's needs. These personnel are generally

not contracting office personnel and carry out their duties related to contracting as "additional duties" on top of their normal responsibilities.

- To determine if on-site contractor personnel are receiving appropriate background checks prior to being granted access to Government facilities and if they are being appropriately in-processed and out-processed at the beginning and end of their service on-site at the CPSC.

- To determine if the decision to conduct the work contracted for on-site rather than off-site was appropriately made and if the agency is properly monitoring on-site contractor performance to prevent fraud, waste, and abuse of federal funds.

#### **AUDIT OF THE ADEQUACY OF PROCEDURES FOR ACCREDITING CONFORMITY ASSESSMENT BODIES AND OVERSEEING THIRD PARTY TESTING (ongoing)**

This audit will assess the adequacy of procedures for accrediting conformity assessment bodies as authorized by section 14(a)(3) of the Consumer Product Safety Act (15 U.S.C. 2063(a)(3)), as amended by this Act, and overseeing the third party testing required by such section.

In implementing these requirements the CPSC faced challenges created by both the requirement that it promulgate rules within mandatory timelines and the complex scientific, technical, and procedural issues surrounding said rules. These difficulties are compounded by the CPSC's lack of institutional experience in dealing with these types of issues.

This audit will attempt to both assess the procedures currently in place and provide guidance about ways to improve those procedures moving forward.

#### **INFORMATION TECHNOLOGY INVESTMENT MANAGEMENT AUDIT (ongoing)**

A contract has been awarded to Withum, Smith, and Brown (WS&B) to review the CPSC's Information Technology Architectures with a special emphasis on the public database. The Consumer Product Safety Improvement Act of 2008 requires that, "The Inspector General of the Commission shall conduct reviews and audits to assess . . . the Commission's capital improvement

efforts, including improvements and upgrades of the Commission's information technology architecture and systems and the development of the database of publicly available information on incidents involving injury or death . . . " This audit is intended to fulfill this requirement.

Given that the CPSC is still in the process of implementing the required database and other IT architecture systems, this audit focuses on the maturity of the investment management process being used to make the acquisitions rather than the, as of yet, nonexistent final products of that process. The database and other aspects of the IT architecture will be the focus of future audits and reviews as they come online. This review is being conducted using the GAO's Information Technology Investment Management (ITIM): A Framework for Assessing and Improving Process Maturity, GAO-04-394G.

The ITIM framework is a maturity model composed of five progressive stages of maturity that an agency can achieve in its IT investment management capabilities. These maturity stages are cumulative; that is, in order to attain a higher stage of maturity, the agency must have institutionalized all of the requirements for that stage in addition to those for all of the lower stages. The framework can be used both to assess the maturity of an agency's investment management processes and as a tool for organizational improvement. For each maturity stage, the ITIM describes a set of critical processes that must be in place for the agency to achieve that stage.

It is this offices intent that the results of this audit will serve as a roadmap for the agency in its efforts to develop the public database and other IT systems.

#### **PURCHASE CARD AUDIT(ongoing)**

A contract has been awarded to Withum, Smith, and Brown (WS&B) to review the CPSC's Purchase Card Program. The CPSC utilizes GSA's purchase card program, which is intended to streamline federal agency acquisition processes by providing a low-cost, efficient vehicle for obtaining goods and services

directly from vendors. The CPSC, which is subject to the general guidance found in the Federal Acquisition Regulations (FAR), has also set forth agency specific purchase card policies and procedures. The CPSC has approximately 148 employees who have been issued purchase cards and whom make approximately 7,700 purchases each year. This audit will review both a sample of these transactions as well as assess both the effectiveness of the existing policies and procedures as well as the agency's actual compliance with same.

The Government Accountability Office (GAO) has been repeatedly reviewing purchasing card programs for many years and issuing reports highlighting weaknesses that expose agencies to fraudulent, improper, and abusive purchases and losses of assets. Some of the common deficiencies cited by GAO include:

- Purchases not properly authorized
- Lack of independent receipt and acceptance
- Lack of accountability over easily pilferable goods purchased with purchase cards

In building on the work previously done by the GAO, WS&B will draw on a number of sources in conducting their review. The GAO has produced an Audit Guide: "Auditing and Investigating the Internal Control of Government Purchase Card Programs" (November 2003) which will constitute a major portion of this review. Four other sources of guidance that will be relevant to this review include the following GAO publications: 1) Standards for Internal Control in the Federal Government; 2) Internal Control Management and Evaluation Tool; 3) Guide for Evaluating and Testing Controls Over Sensitive Payments; and 4) Executive Guide: Strategies to Manage Improper Payments.

In addition, this audit will utilize OMB Circular A-123, Appendix B, Revised (January 15, 2009) Improving the Management of Government Charge Card Programs, which provides consolidated government-wide charge card program requirements and guidance issued by OMB, GSA, Treasury, and other Federal agencies; and establishes standard minimum requirements and suggested best practices for government charge card programs.

It is this offices intent that the results of this audit will serve as a roadmap for the agency in its efforts to improve its purchase card program.

## INVESTIGATIVE PROGRAM

A number of individuals contacted the Office of the Inspector General during the reporting period to discuss their concerns about matters involving CPSC programs and activities. Eight (8) of the individuals filed formal complaints alleging waste, fraud, abuse, or mismanagement of CPSC resources. These complaints resulted in five (5) investigations being initiated. Several cases were transferred to CPSC officials (management or EEOC) or other government agencies for final disposition after initial investigation indicated that these cases would be more appropriately dealt with outside of IG channels. Several investigations were closed after initial investigation determined that no action was required.

Investigations	No. of Cases
Beginning of period	4
Opened	5
Closed	3
Transferred/Incorporated into existing investigation	2
End of the period	4 <sup>2</sup>

### REPORTABLE INVESTIGATIONS

**Alleged Misconduct by a Government Employee** - Subject engaged in an outside activity/employment without prior approval from the CPSC. In addition to engaging in the activities detailed above without proper authorization, subject was also using Government time and equipment to conduct said activity. Allegations were substantiated and case referred to management for disciplinary action.

**Alleged Abuse of Agency's Performance Appraisal System** - Two complainants alleged that a CPSC supervisor had failed to comply with agency policies regarding the provision of performance feedback and performance appraisals that accurately reflected duty performance. This investigation was transferred to the EEO.

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<sup>2</sup> One of these investigations was closed after the end of the reporting period but before this report was submitted.

**Alleged Violation of Agency's Time and Attendance Procedures** - An anonymous complaint alleged that a manager failed to properly apply the agency's time and attendance policies and procedures. Investigation determined that no violation had occurred.

**Alleged Abuse of Position** - complainant alleged that a supervisor at the CPSC sold insurance to subordinates. Investigation determined that there was insufficient evidence to substantiate the allegation.

## **ONGOING INVESTIGATIONS**

Four investigations were ongoing at the end of the period. These cases involve allegations of violations of various Agency or Federal regulations and/or statutes; one of the ongoing investigations has been accepted by the Department of Justice for criminal prosecution.

## **OTHER ACTIVITIES**

## **LEGISLATION AND REGULATIONS**

The Office of the Inspector General reviews internal and external legislation and regulations that affects the Office of the Inspector General in specific or CPSC's programs and activities in general. Procedures applicable to the following subjects were reviewed and commented on during the reporting period:

- Consumer Product Safety Improvement Act
- Implementation of Inspector General Reform Act
- Training of Managers and Supervisors
- Agency Privacy Program
- Holding of Outside Positions by Employees
- Conflict of Interest
- Agency Chain of Command Issues
- Security Clearance and Background Check Procedures
- Equal Employment Opportunity Program
- Federal Information Security Management Act
- Morale of Employees
- Purchase Card Program
- Changes in Agency Acquisition Policies
- Anti-Deficiency Act

## **COUNCIL OF INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY**

The Inspector General, as a member of the Council of Inspectors General on Integrity and Efficiency (Council), maintains active membership with the Council and its associated activities. The Council identifies, reviews, and discusses issues that are of interest to the entire IG community. The Inspector General attended regular meetings held by the Council and joint meetings of the Council and GAO. The Office of the Inspector General's staff attended seminars and training sessions sponsored or approved by the Council and its associated activities.

## **COUNCIL OF COUNSELS TO THE INSPECTORS GENERAL**

The Counsel to the Inspector General is a member of the Council of Counsels to the Inspectors General. The Council considers legal issues of interest to the Offices of Inspectors General. During the review period, the Council reviewed existing and pending laws affecting the CPSC in general and the Office of the Inspector General in specific and provided other support as needed to the Inspector General.

## REPORTING REQUIREMENTS SUMMARY

Reporting requirements specified by the Inspector General Act of 1978, as amended, are listed below:

<u>Citation</u>	<u>Reporting Requirements</u>	<u>Page</u>
Section 4(a)(2)	Review of Legislation and Regulations.....	12
Section 5(a)(1)	Significant Problems, Abuses, Deficiencies.....	4-11
Section 5(a)(2)	Recommendations With Respect to Significant Problems, Abuses, and Deficiencies.....	4-11
Section 5(a)(3)	Recommendations Included in Previous Reports on Which Corrective Action Has Not Been Taken.....	NA
Section 5(a)(4)	Matters Referred to Prosecutive Authorities.....	12
Section 5(a)(5)	Summary of Instances Where Information Was Refused.....	NA
Section 5(a)(6)	Reports Issued.....	4-11
Section 5(a)(7)	Summary of Significant Reports.....	4-11
Section 5(a)(8)	Questioned Costs.....	NA
Section 5(a)(9)	Recommendations That Funds Be Put to Better Use.....	NA
Section 5(a)(10)	Summary of Audit Report Issued Before the Start of the Reporting Period for Which No Management Decision Has Been Made.....	NA
Section 5(a)(11)	Significant Revised Management Decisions.....	NA
Section 5(a)(12)	Management Decisions with Which the Inspector General is in Disagreement.....	NA
Section 845 of The NDAA of 2008	Significant Contract Audit Reports.....	7